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## THE EARLY REGULATION OF PUBLIC SERVICE CORPORATIONS

The regulation of public service corporations has assumed such importance in recent years that there is general disposition to consider it a modern method of securing justice between the public and corporations. A study of early public utility companies and the laws dealing with them warrants no such conclusion. The service of these companies to the public was recognized from the first and was given as one reason for granting charters. As early as 1784 Massachusetts lawmakers incorporated the proprietors of a bridge company because the bridge would be of "great public utility."<sup>1</sup> That the companies were looked upon to some extent as public benefactors, did not, however, grant them immunity from regulatory provisions. The early companies were, of course, comparatively simple, consisting largely of turnpike, canal, bridge, and ferry companies. Yet in the regulatory provisions concerning them are found the germs, if not the actual statements, of practically all our present methods of regulation.

The present machinery for regulating public utility companies is of course more extensive and adequate than what existed in the latter part of the eighteenth and the early part of the nineteenth centuries. The work is now usually carried on through public utility commissions. These began to be formed about the middle of the nineteenth century, but did not assume their present activities until a quarter of a century later. Only recently have state public utility commissions been formed, New York and Wisconsin almost simultaneously taking the lead. The movement has spread so rapidly that a majority of the states now have such commissions. The commissioners generally receive power from the legislature, which is either that of general supervision or an enumeration of special and particular powers. Provision is often made for judicial review. Salaries are paid by the political unit which the commission represents.

A commission of some form was generally used in supervising the early public utility corporations. Position on the commission was secured by appointment, but not all members were appointed by the same authority. Some commissions were temporary and others were permanent, while a limit was often placed upon the amount of time which could be allowed to the commission for its

<sup>1</sup> Laws and Resolves of Massachusetts, 1784, ch. 53.

services. Instead of being recompensed directly from the public funds, as at present, the earlier commissioners were paid directly by the corporation.

In 1803 a New York law<sup>2</sup> incorporated a turnpike company and provided that the governor should appoint three commissioners to examine the road from time to time. Each commissioner was to be paid three dollars a day by the corporation but the inspection was not to exceed two days a month. An 1804 turnpike law<sup>3</sup> provided for inspection on complaint. If the company or complainant was dissatisfied with the finding of one commissioner, appeal could be made to the whole board, whose decision was final. If unappealed, and the complaint was well founded, the corporation was to pay the inspector three dollars a day as well as three dollars to the complainant; if not well founded, the complainant was to pay the inspector. If appealed, and the complaint was still considered well founded, the corporation was to pay the complainant ten dollars. In 1806 a law<sup>4</sup> provided that if the complaint was unfounded the corporation was to collect, at law, from the complainant the amount paid to the inspectors. In 1806<sup>5</sup> provision was made for the appointment of appraisers and inspectors by the county judge. For the first service the judge was to receive one dollar from the corporation, likewise for the second unless the complaints investigated were unfounded, in which case the complainant was to pay the one dollar. Many of these provisions were incorporated in a general law in 1807 which provided for the appointment of commissioners to lay out the road<sup>6</sup> and others to inspect it, both of which were to be paid specified amounts by the corporation.

Other states besides New York handled the problem in a similar way. In the Laws and Resolves of Massachusetts for 1804<sup>7</sup> there is an act defining the general powers of turnpike companies. Provision was made for the legislature to appoint a committee to view the route proposed by the petitioners for a road. When a grant was made for a road, the court of general sessions of the peace within the county where the road was located was to appoint five disinterested freeholders who were to have the same powers

<sup>2</sup> New York Statutes, 1803, ch. 50.

<sup>3</sup> *Ibid.*, 1804, ch. 90.

<sup>4</sup> *Ibid.*, 1806, ch. 170.

<sup>5</sup> *Ibid.*, 1806, ch. 50.

<sup>6</sup> *Ibid.*, 1807, ch. 38.

<sup>7</sup> Laws and Resolves of Massachusetts, 1804, ch. 125.

as committees appointed for laying out public highways. All the expenses of the committeemen were to be borne by the corporation. In 1806<sup>8</sup> North Carolina gave the county court powers to regulate bridge companies within certain limits. Pennsylvania in 1783<sup>9</sup> permitted ferries to be established subject to such regulation as the legislature considered best. By a law of Vermont, 1808,<sup>10</sup> the judges of the supreme court were to direct the examination of a bridge company and could reduce tolls. In 1820<sup>11</sup> she gave the village selectmen broad powers in regulating a ferry. In 1817<sup>12</sup> Virginia conferred regulatory powers upon the board of public works but provided that the legislature might confer the same powers upon any other body.

These examples show that the principle of regulation was recognized from the beginning. In some cases new machinery was created while in others use was made of bodies already existing, such as legislature, courts, and selectmen. In taking note of some of the more specific forms which this regulation assumed, it will be convenient to classify present regulation into provisions for supervising—(1) franchises and officers, (2) valuation and rates, (3) security issues, (4) service and property, (5) accounts and reports—and then to examine these, noticing briefly the scope covered by each at present but more especially the early regulatory provisions that would fall in each class.

### *Franchises and Officers*

One of the first duties which was placed on the public utility commission after it was formed was to select the location for railroads in accordance with the public utility. The regulation of granting and using franchises is often extended to the commission. Laws often contain regulatory provisions, such as prohibiting the capitalization of franchises, while provision is sometimes made for their purchase and termination. Penalties are frequently prescribed against officers for failure to make reports, for failure to produce books, for refusal to obey subpoenas and for granting concessions to commissioners.

In view of the importance now attached to the subject of the

<sup>8</sup> Laws of North Carolina, 1806, ch. 14.

<sup>9</sup> Laws of Pennsylvania, 1783, ch. 1042.

<sup>10</sup> Laws of Vermont, 1808, ch. 63.

<sup>11</sup> *Ibid.*, 1820, ch. 113.

<sup>12</sup> Laws of Virginia, 1817, ch. 38.

length and termination of franchises, it is interesting to note the early provisions of this nature, their wide extent, and the number of ways in which franchises could be terminated. Massachusetts, in the general turnpike law of 1804,<sup>13</sup> stipulated that a company could be dissolved if it appeared to the satisfaction of the legislature that the income had compensated the company for money expended together with 12 per cent interest. The property, in case of dissolution, was vested in the commonwealth and at the disposal of the legislature. Connecticut, in 1806,<sup>14</sup> declared that upon neglect to make repairs the charter of the company was to be declared void. By a law of Maryland, 1801,<sup>15</sup> when a road had been remunerated for its capital stock, together with 15 per cent on it and for all damages it had met, tolls were to cease forever. In 1803<sup>16</sup> the legislature provided that all above 15 per cent received by a bridge company should be kept as a sinking fund to purchase the stock. A law the next year<sup>17</sup> provided that if the profits of a turnpike company were more than 10 per cent the court was to receive the surplus and use it in purchasing the road. The general assembly could at any time after the completion of the road, one year's notice having been given to the company, pay the cost of the road with interest at 10 per cent whereupon the road would pass under the control of the legislature. In 1820<sup>18</sup> New Jersey incorporated a canal company which could be taken over at the end of 50 years by paying the sum expended together with 12 per cent interest.

The earlier provisions in Massachusetts were less considerate of the companies. The law of 1784<sup>19</sup> simply provided that at the end of forty years the bridge to be erected by the company was to revert to the state. Nothing was stated about a return or price; nor was there any such statement in the law of 1787<sup>20</sup> permitting the erection of a bridge which was to revert to the state in good repair at the end of seventy years. The road company incorporated by the state in 1796<sup>21</sup> could be dissolved by the general court

<sup>13</sup> Laws and Resolves of Massachusetts, 1804, ch. 125.

<sup>14</sup> Acts and Laws of Connecticut, 1806, p. 717.

<sup>15</sup> Laws of Maryland, 1801, ch. 23.

<sup>16</sup> *Ibid.*, 1803, ch. 103.

<sup>17</sup> *Ibid.*, 1804, ch. 51.

<sup>18</sup> Laws of New Jersey, 1820, p. 55.

<sup>19</sup> Laws and Resolves of Massachusetts, 1784, ch. 53.

<sup>20</sup> *Ibid.*, 1787, ch. 27.

<sup>21</sup> *Ibid.*, 1796, ch. 5.

when it was satisfied that the tolls had paid expenses together with 12 per cent interest. Pennsylvania granted both perpetual and terminable franchises. In 1787<sup>22</sup> a bridge company was formed, but at any time after the erection of the bridge, the legislature, if it considered a free bridge desirable, was to appoint three commissioners, who, with three appointed by the proprietors of the bridge, were to decide upon the amount to be given in payment. In 1793<sup>23</sup> an act vested the property of a bridge in the company or their heirs forever. A turnpike, granted in 1796,<sup>24</sup> could be purchased after twenty-five years for a sum determined by ten commissioners, five to be appointed by the legislature and five by the company. All profits above 15 per cent from the bridge established in 1798<sup>25</sup> were to be used as a sinking fund to redeem the bridge. When the toll from the road chartered by Vermont in 1799<sup>26</sup> amounted to the cost of the road with an annual interest of 12 per cent, the supreme court might dissolve the corporation and place the property at the disposal of the legislature.

Similar provisions are found in charters granted in the first quarter of the nineteenth century. Vermont, in 1808,<sup>27</sup> chartered a turnpike company but provided that when receipts had repaid expenditure with 8 per cent interest the corporation was to be dissolved and the property vested in the state. Virginia, however, granted perpetual franchises. The general turnpike law of 1817<sup>28</sup> provided that, in consideration of the expenses of the proprietors, roads with all tolls and profits were to be vested in the proprietors forever in proportion to their shares. This state even went further and declared the shares free from public tax. Provision was made, however, that if a road were out of repair for eighteen months the interest of the company in the road and tolls was to be forfeited forever. South Carolina, also, in one instance at least, because of the great cost to the proprietor, vested a road in him and his posterity forever.<sup>29</sup>

Early provisions regarding franchises are not confined to the eastern states but are also found in laws of some of the middle

<sup>22</sup> Laws of Pennsylvania, 1787, ch. 1302.

<sup>23</sup> *Ibid.*, 1793, ch. 1684.

<sup>24</sup> *Ibid.*, 1796, ch. 1878.

<sup>25</sup> *Ibid.*, 1798, ch. 1963.

<sup>26</sup> Laws of Vermont, 1799, p. 38.

<sup>27</sup> *Ibid.*, 1808, ch. 117.

<sup>28</sup> Laws of Virginia, 1817, ch. 38.

<sup>29</sup> Laws of South Carolina, 1810, p. 37.

western states. Illinois territory, in 1818,<sup>30</sup> chartered a navigation company. In consideration of the expense, the works and the profits from the enterprise were vested in the company for thirty years, but at the end of that time all title was to cease. During this period no tax was to be collected from the company. In 1812<sup>31</sup> Ohio gave a charter to a bridge company for ninety-nine years. If higher tolls were charged, however, than those set forth in the schedule, the county was to have all rights of proprietorship. In 1817<sup>32</sup> a turnpike company was incorporated, and it was provided that at any time the state or counties had a right to purchase the road for its cost plus 12 per cent. A law of 1819<sup>33</sup> authorizing a bridge company gave the county commissioners power to purchase the bridge, 6 per cent interest to be allowed.<sup>34</sup>

The early provisions referring to officers and employees were not many; yet we find the possibility of such regulation recognized in a few instances. Maryland, in 1804,<sup>35</sup> provided that the court could require road repairs and if these were not made in proper time the president of the road was to be fined. Massachusetts, in 1780,<sup>36</sup> provided for a suitable person to collect toll who must be approved by the court of general sessions. He was to be fined for collecting more than specified toll. Delaware, by a law of 1815,<sup>37</sup> provided that a toll collector who demanded more than scheduled rates should forfeit twenty-five dollars. Maryland in 1801<sup>38</sup> made the penalty for a similar offense fifty dollars.

<sup>30</sup> Laws of Illinois Territory, 1817-1818, p. 4.

<sup>31</sup> Ohio Laws, 1812, ch. 22.

<sup>32</sup> *Ibid.*, 1817, ch. 13.

<sup>33</sup> *Ibid.*, 1819, ch. 13.

<sup>34</sup> A number of instances can be found where the rights of these companies reverted to the political unit. A careful study of the documents of different states and counties would doubtless show a large number. It seems the proprietors were not always willing to give up their rights. An example of this is the Charles River Bridge and the Warren Bridge at Boston. Here the proprietors resorted to litigation. A number of House Documents refer to this controversy, *e.g.*, No. 4, 1826 and No. 82, 1827. The laws of the state, 1823, p. 510 and p. 851 also refer to the controversy. The resolves of 1824, ch. 64 authorizes the ascertainment of the reversionary value of some bridges. A number of years later some states changed the provisions for purchasing roads. Ohio did this in 1878. (Ohio Laws, vol. 75, p. 1150.)

<sup>35</sup> Laws of Maryland, 1804, ch. 51.

<sup>36</sup> Laws and Resolves of Massachusetts, 1780, ch. 7.

<sup>37</sup> Laws of Delaware, 1815, ch. 45.

<sup>38</sup> Laws of Maryland, 1801, ch. 23.

*Valuation and Rate Making*

Valuation and rate making occupy important places in present regulation problems. Reasonable freight rates are required, with but little light on what "reasonable" means. "Value of service," "what the traffic will bear," and "cost of service" have been used as bases for rate fixation, the odds at present favoring the latter. Commissions are given power to deal with a large number of problems which arise concerning rates, while legislatures prescribe penalties for a long list of offenses. In allowing certain returns the value of the utility must be determined and as yet no general method has proved entirely satisfactory.

Inspection of the early laws reveals that the subject of valuation and rate making occupied a scarcely less important place then than at present. Most of the rates were fixed by schedule while they were often to be changed to allow a certain percentage return on the value of the property. Massachusetts as early as 1780<sup>39</sup> stipulated certain rates of toll for a bridge. In 1784<sup>40</sup> a bridge company was organized with a schedule of tolls to continue in force for forty years. Two bridge companies were incorporated in 1794.<sup>41</sup> In the case of one the general court could change the rate of toll after twenty years; in case of the other after twenty-five years. In 1804<sup>42</sup> she established a schedule of tolls for all turnpike companies.

Maryland, in 1804,<sup>43</sup> made provision that if at the end of two years the average profits had not been 10 per cent the tolls were to be increased until this return should be realized. By a law of 1807<sup>44</sup> the New Hampshire court was to so regulate tolls that net profits would be between 6 and 9 per cent. New Jersey, when incorporating a canal company in 1820,<sup>45</sup> required one fifteenth of all profits to be paid to the state whenever the return was more than 15 per cent on the capital. Pennsylvania laws of 1787, 1791, and 1792<sup>46</sup> incorporated a bridge company and two canal companies. Schedules of tolls were given which were to be revised if the return was more or less than a certain per cent on the capital. In

<sup>39</sup> Laws and Resolves of Massachusetts, 1780, ch. 7.

<sup>40</sup> *Ibid.*, 1784, ch. 53.

<sup>41</sup> *Ibid.*, 1794, ch. 32 and 33.

<sup>42</sup> *Ibid.*, 1804, ch. 125.

<sup>43</sup> Laws of Maryland, 1804, ch. 51.

<sup>44</sup> Laws of New Hampshire, 1807, p. 8.

<sup>45</sup> Laws of New Jersey, 1820, p. 55.

<sup>46</sup> Laws of Pennsylvania, 1787, ch. 1302; 1791, ch. 1577; 1792, ch. 1636.



1810, 1812, and 1819<sup>47</sup> Ohio incorporated bridge companies. A schedule of tolls was given in each case. In the first case any legislature could regulate the tolls after 1840; in the second, after fifteen years and once every five years thereafter; in the last case any legislature after 1840 could regulate the tolls. A Virginia law of 1808<sup>48</sup> allowed tolls to bring 10 per cent on the capital, while a law of 1817<sup>49</sup> permitted higher tolls during the first years of a company's existence. After fifty-one years, however, tolls could only vary so as to realize a return of from 6 to 10 per cent on capital.

### *Securities*

The supervision of security issues is looked upon as one of the newer forms of regulation and the laws of some states are exacting in this respect. In some cases the mortgaging of public utility property is regulated; in others the purchasing and holding of stocks and bonds in other companies is supervised. Often consolidations can be formed only under the direction of a commission, penalties being prescribed for issuing stocks and bonds other than with its consent.

The security aspect of regulation did not assume an important place in early legislation. Trusts and combinations were unknown and there was no interdependence among companies. Yet even in the early laws are found germs of the policy that the state has a right to supervise a company's securities. Connecticut, in a general turnpike law of 1803,<sup>50</sup> stipulated that all expenses except for necessary and ordinary repairs were to be met by an increased capital stock. Even the three dollars a day paid to commissioners was to be raised in this way. By a law of 1805,<sup>51</sup> however, no deficiency of interest could be charged to capital. North Carolina incorporated a bridge company in 1812<sup>52</sup> and prohibited any person from subscribing to more than twenty shares within thirty years after the books were opened. Pennsylvania in 1792<sup>53</sup> forbade the increase of capital stock unless the authorized capital did not complete the canal chartered or unless it was injured through casualty.

<sup>47</sup> Laws of Ohio, 1810, ch. 65; 1812, ch. 22; 1819, ch. 67.

<sup>48</sup> Laws of Virginia, 1808, ch. 27.

<sup>49</sup> *Ibid.*, 1817, ch. 38.

<sup>50</sup> Acts and Laws of Connecticut, 1803, p. 636.

<sup>51</sup> *Ibid.*, 1805, p. 691.

<sup>52</sup> Laws of North Carolina, 1812, ch. 26.

<sup>53</sup> Laws of Pennsylvania, 1792, ch. 1636.

*Service and Property*

At present we are accustomed to a variety of regulations affecting the services and property of public utility companies. Some laws require particular appliances and equipment; others give commissions power to make such requirements. Penalties are prescribed for failure to carry out the various kinds of service requirements. The sale and lease of property is often supervised while damages to other property caused by a public utility company are assessed and awarded by commissioners. Additions, extensions, repairs, etc., are often required to be made to the existing plant.

Some provision concerning service to be rendered is generally found in the early laws which chartered turnpike and bridge companies. The right to collect tolls was frequently based upon the maintenance of a required standard of service. As early as 1796<sup>54</sup> Massachusetts placed a fine upon companies for unreasonable delay of travelers, while in 1802<sup>55</sup> she made the companies liable for all damages resulting from defects in the road. The general turnpike law of 1804<sup>56</sup> provided that a corporation should be fined if any person in its employ should collect more toll than allowed by law. If a road was not kept in good condition the county court could order the gates to be thrown open and no toll could be collected until a counter order was given. In 1797<sup>57</sup> a Connecticut law required the county court to inquire into any complaint as to the condition of the road. If the complaints were well founded tolls were to cease until a further order from the court. In the general law of 1803 the commissioners were required to carefully inspect the roads annually or more often if "they thought the public good required it." If they were not found in good repair the commissioners could order the toll gates thrown open until acceptable repairs were made. North Carolina, Rhode Island, and Ohio at later dates had similar provisions. North Carolina, in 1811,<sup>58</sup> made the proprietor liable for damages if he failed to keep the road in repair. No person was to be detained at any gate longer than fifteen minutes after he had tendered toll. Rhode Island in 1812<sup>59</sup> gave the justices of the county court power, upon com-

<sup>54</sup> Laws and Resolves of Massachusetts, 1796, ch. 5.

<sup>55</sup> *Ibid.*, 1802, ch. 34.

<sup>56</sup> *Ibid.*, 1804, ch. 125.

<sup>57</sup> Acts and Laws of Connecticut, 1797, p. 473.

<sup>58</sup> Laws of North Carolina, 1811, ch. 48.

<sup>59</sup> Rhode Island Public Laws, 1812, p. 155.

plaint which they thought well founded, to order the gates opened until proper repairs were made. Ohio chartered a bridge in 1812<sup>60</sup> stipulating that for every offense of not keeping it in repair the company was to forfeit five dollars.

### *Accounts and Reports*

Regulation of accounting methods and securing reports of different kinds occupies an important place in the present relation of the public to utility companies. The Interstate Commerce Commission requires accounts and reports from the railroads. Some states make the same requirements for companies within the state; others prescribe systems of their own. Provisions are generally made for examining and auditing accounts under direction of commissioners, and specific forms are often required. Free access to a company's books is generally required, penalties being inflicted for mutilation of books or failure to keep them in the prescribed manner.

In the early laws no less emphasis was placed upon the right of the public officers to supervise accounts and demand reports. These provisions, as is true of most of the other regulatory provisions, were usually first found in laws dealing with specific companies. When a general law was enacted they were incorporated in it. That these specific provisions were made general is evidence that they accomplished the purpose for which they were intended. Here again Massachusetts was early in requiring such regulation. The act of 1780,<sup>61</sup> which chartered a bridge company, required the proprietor to keep an account of the tolls received and exhibit this under oath to the court. A law of 1796<sup>62</sup> required the books of the turnpike company chartered by it to be open at all times to inspection and examination by a committee appointed by the general court. The books were likewise to be open to the inspection of the governor at any time. A true account of incomes and dividends arising from tolls together with a statement of necessary disbursements was to be made annually to the governor and council. Practically the same provisions were incorporated in the general turnpike act of 1804<sup>63</sup> and in addition a statement of the cost of the road was required. Connecticut was even more specific, for in

<sup>60</sup> Ohio Laws, 1812, ch. 22.

<sup>61</sup> Laws and Resolves of Massachusetts, 1780, ch. 7.

<sup>62</sup> *Ibid.*, 1796, ch. 125.

<sup>63</sup> *Ibid.*, 1804, ch. 125.

1805<sup>64</sup> a law was passed entitled "An act to establish a uniform mode of stating and preserving accounts of turnpike companies." Commissioners were to be appointed to inspect the companies and to give the accounts to the state treasurer in such form as he prescribed and on the uniform blanks which he was to have printed. The amount of capital stock was to be stated in one account while the statement of repairs, expenses, and tolls was to be in another.

Other states were no less reticent in requiring similar provisions. New York in her general turnpike law, 1807,<sup>65</sup> required the corporation to file an accurate map of the road with the clerk of the county through which the road passed. Maryland, in incorporating a road in 1801,<sup>66</sup> required an annual statement of receipts and expenditures. For each neglect to make the return the company was to forfeit one thousand dollars. Pennsylvania chartered a canal company in 1791<sup>67</sup> which, at the end of every third year, was to lay before the general assembly an abstract of accounts showing capital expenditure, income and profits. The canal company chartered in 1798<sup>68</sup> was to give an abstract of accounts at the end of every six years for the five preceding years. Vermont chartered a bridge company in 1799.<sup>69</sup> At the end of twenty years the judges of the supreme court were to examine into the accounts of the company through an entirely disinterested person whom they were to appoint. He was to be sworn to the faithful discharge of his trust, to be empowered to call before him and examine under oath any person he desired, and was to make out what he considered a fair statement of the cost of erecting the bridge as well as the proceeds arising from tolls. Another company chartered the same year<sup>70</sup> was ordered to lay all accounts before the legislature at the end of every fifteen years. A bridge company formed in 1808<sup>71</sup> was to be examined by the court representatives at the end of eight years and at the end of every five years thereafter.

Some years later other states enacted laws of a similar nature. North Carolina<sup>72</sup> chartered a canal company in 1811 and at the

<sup>64</sup> Acts and Laws of Connecticut, 1805, p. 691.

<sup>65</sup> New York Statutes, 1807, ch. 38.

<sup>66</sup> Laws of Maryland, 1801, ch. 23.

<sup>67</sup> Laws of Pennsylvania, 1791, ch. 1577.

<sup>68</sup> *Ibid.*, 1798, ch. 1963.

<sup>69</sup> Laws of Vermont, 1799, p. 59.

<sup>70</sup> *Ibid.*, 1799, p. 38.

<sup>71</sup> *Ibid.*, 1808, ch. 63.

<sup>72</sup> Laws of North Carolina, 1811, ch. 25.

end of every twenty-five years she required a sworn statement of tolls for the preceding years. Another company chartered the same year<sup>73</sup> was to make a sworn annual statement to the superior court of all receipts and expenditures. Delaware required a road company chartered in 1815<sup>74</sup> to give an abstract of accounts every third year for ten years; after that an abstract at the end of every ten years for the preceding three years. Virginia required the turnpike company incorporated in 1817<sup>75</sup> to make a report at the end of the first year of the amount of stock expended, expenses, and toll received, while a similar report was required at the end of every three years. The board of public works, to which the report was to be made, was to prescribe the form of the report and determine how it was to be verified. Ohio required the turnpike company chartered in 1817<sup>76</sup> to keep account of expenses and receipts. Books must be always open to the inspection of the county commissioners or an agent appointed by the legislature. A refusal to exhibit books forfeited all rights conferred by the act. An act in 1819<sup>77</sup> required a bridge company to keep and file expenses with the county commissioners. When New Jersey incorporated a canal company in 1820<sup>78</sup> she demanded at the end of twenty years and at the end of every ten years thereafter an account of profits and expenditures to be given to the legislature. Books, papers, and transactions after twenty-one years were at all times to be open to the inspection of the state treasurer or any one appointed by the legislature.

From this review of the legislation by which public utility companies were formed before 1820 it can be seen that regulation existed at even this early date. In fact, regulation and the public utilities have grown up hand in hand. At first the regulation was simple, but the operations of the companies were simple also. As the companies became more extensive, regulation, even in these early years, branched out into new fields, and was of such character that it naturally conforms to a classification of present-day methods. Only in the agency of the regulation and in the method of remuneration has there been marked change. Instead of a special

<sup>73</sup> *Ibid.*, 1811, ch. 48.

<sup>74</sup> Laws of Delaware, 1815, ch. 45.

<sup>75</sup> Laws of Virginia, 1817, ch. 38.

<sup>76</sup> Ohio Laws, 1817, ch. 13.

<sup>77</sup> *Ibid.*, 1819, ch. 67.

<sup>78</sup> Laws of New Jersey, 1820, p. 55.

commission to look after each corporation, a state commission now supervises all the public utility companies in a state. Remuneration of commissioners instead of coming directly from the corporation, is now paid from public funds. This is generally more than equalled, however, through greater taxation, so in the end the results are the same. Regulation, then, cannot properly be called a modern method of handling the public service corporation, for it is simply the extension of a system which began with this class of corporation and the application of it to meet the different phases of the problems arising out of the peculiar relationship of public utilities to the state.

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